United States District Court Southern District of Texas

ENTERED

June 11, 2024 Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

FOOD NOT BOMBS HOUSTON et al,

Plaintiffs,

V.

CIVIL ACTION NO. 4:24-CV-0338
CIVIL ACTION NO. 4:23-CV-1206

S

CITY OF HOUSTON, TEXAS

Defendant.

ORDER ON CONSOLIDATION

Under Federal Rule of Civil Procedure 42(a), a trial court may consolidate actions involving common questions of law or fact, particularly if consolidation will avoid unnecessary cost or delay. The Court has broad discretion in determining whether two or more actions have common questions of law and fact and whether consolidation would save time and money. *Mills v. Beech Aircraft Corp.*, 886 F.2d 753, 761-62 (5th Cir. 1989); *St. Bernard Gen'l Hosp., Inc. v. Ass'n of New Orleans, Inc.*, 712 F.2d 978, 989 (5th Cir. 1983). The district court may order consolidation even where the parties are opposed to it. *In re Air Crash Disaster at Florida Everglades v. Eastern Air Lines, Inc.*, 549 F.2d 1006, 1013 (5th Cir. 1977). The court's determination may also "take precedence over the desires of counsel." *Id.* at 1014.

Here, the Court finds that the two suits here, Food Not Bombs Houston, et al. v. City of Houston, Texas (4:24cv0338) and Picone v. City of Houston, Texas (4:23cv1206), clearly arise out of similar occurrences, share common issues of fact and law, and that consolidation of the suits will save time and money. In both cases, Plaintiffs are affiliated with Food Not Bombs Houston and

bring claims pursuant to § 1983 challenging the constitutionality of the Charitable Food Sharing Ordinances.

It is therefore **ORDERED** that these cases are hereby consolidated into Civil Action No. 4:24cv0338. The Court chooses to consolidate into this case notwithstanding the local rule requiring cases be consolidated into the "oldest" case. The Court departs from the local practice because the Court has already issued a preliminary injunction in Civil Action No. 4:24cv0338. All parties shall abide by the scheduling order currently governing this action.

Signed at Houston, Texas, this ______day of June, 2024.

Andrew S. Hanen

United States District Judge